IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Criminal Revision No.1813 of 2006
Date of Decision: September 19, 2006

Atul Sharma.

.....PETITIONER(S)

VERSUS

State of Punjab.

.....RESPONDENT(S)

. . .

CORAM:- HON'BLE MR. JUSTICE AJAI LAMBA

PRESENT:- Mr. S.S. Goraya, Advocate, for the petitioner.

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AJAI LAMBA, J. (Oral)

This is a criminal revision petition directed against the order passed by the Special Court at Gurdaspur. The petitioner had made an application that his Car bearing No.PB-18-J-8881 was allegedly used in transporting contraband. Application was made for release of the vehicle on Supderdari. The application has been dismissed, hence the present revision petition.

Learned counsel for the petitioner has argued on the premises of provisions of Sections 451 and 452 Cr.P.C.

There is no merit in this petition, in so much as, the Narcotic Drugs & Psychotropic Substances Act, 1985 provides for procedure of making confiscation and also for considering as to whether the

vehicle is liable to be confiscated. Section 60(3) of the Act reads thus:-

> **"60. Liability of illicit drugs, substances, plants, articles and conveyances to confiscation.-**
>
> (1) xx xx xx xx xx xx xx
>
> (2) xx xx xx xx xx xx xx
>
> (3) Any animal or conveyance used in carrying any narcotic drug or psychotropic substance [or controlled substance], or any article liable to confiscation under sub-section (1) or sub-section (2) shall be liable to confiscation, unless the owner of the animal or conveyance proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person-in-charge of the animal or conveyance and that each of them had taken all reasonable precautions against such use."

The matter was considered by a Division Bench of this Court in Tarsem Singh Versus State of Punjab, 2005(4) RCR (Criminal) 300 and it was held that vehicle cannot be released on Superdari under Sections 451 and 452 Cr.P.C. For release, provisions of Section 63 of the the Narcotic Drugs & Psychotropic Substances Act, 1985 have to be satisfied.

It would be a matter of evidence as to whether the vehicle

was used for transporting the narcotic drug and psychotropic substance without the knowledge or connivance of the owner i.e. petitioner as pleaded by him. If such onus is not discharged, the vehicle cannot be released on Superdari.

In view of the above, the petition is dismissed.

(AJAI LAMBA)
JUDGE

SEPTEMBER 19, 2006
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